

AGREEMENT -- DRAFT

AUG - 7 1998

THIS AGREEMENT, made as of the 1 day of \_\_\_\_\_, 1998, by and between INTERNATIONAL MERCHANDISING CORPORATION, an Ohio corporation and an affiliated company of the International Management Group of companies, with offices at 22 East 71st Street, New York, New York 10021 ("IMC") as agent for and on behalf of Philip Morris Incorporated, a Virginia corporation with executive offices at 120 Park Avenue, New York, New York 10017 ("PM") and STRIKE TEN ENTERTAINMENT INCORPORATED(STE)., a Connecticut Corporation with offices at 1077 Bridgeport Avenue, Shelton, CT 06484.

RECITALS

WHEREAS, PM desires to sponsor certain bowling events for the purpose of promoting and fostering the sport of bowling;

WHEREAS, the STE is a marketing association which services the Bowling Proprietors' Association of America (BPAA), and the Professional Women's Bowling Association (PWBA);

WHEREAS, IMC has been retained by PM to develop and implement on behalf of PM a bowling promotion for Basic brand cigarettes during the term of this Agreement;

WHEREAS, IMC desires to develop, in conjunction with STE, and PM desires to sponsor a series of bowling events developed in conjunction with the STE (on behalf of BPAA and PWBA), and the Professional Bowlers Association (the "PBA");

NOW, THEREFORE, in consideration of the premises and the terms and conditions hereinafter set forth, the parties hereto agree as follows:

**ARTICLE I -- THE PROGRAM**

1.1 **Definition.** As used in this Agreement, the "Program" means those tournaments and activities which are described in detail in Sections 1.2 through 1.6 hereof, which collectively comprise the "1998 Basic Bowling Promotion."

1.2 **Grass Roots Tournament Series.** The "Grass Roots Tournament Series" shall mean a Basic-sponsored handicap tournament that will provide recreational bowlers the opportunity to participate in a tournament offering \$125,000 in prize money and a trip to Las Vegas, Nevada, to bowl with professional bowlers in a National Pro/Am event. The Tournament will be coordinated and administered by STE on behalf of BPAA, and will be open to any male or female league bowler who is at least twenty-one (21) years of age by September-~~201~~, 1998, and has a verifiable 1997 - 1998 league average. Qualifying tournaments will be held simultaneously at BPAA participating member bowling centers in approximately 50 key Basicmarkets, which will be designated on a state-by-state basis (the "Regional Markets") which will register to participate through their respective BPAA state association offices. A maximum of 1,200 bowling centers will participate. PM and STE will select the Regional Markets in which the qualifying tournaments will take place. Qualification for Regional Market finals will be conducted from September 21, 1998, through October 18, 1998. The format of play in each Grass Roots Tournament Series event will be determined by STE subject to approval thereof by PM. Bowlers competing in the Grass Roots Tournament Series will be charged a one-time only nominal entry fee of a maximum of \$15.00 (a portion of which will be applied to the Regional Market Finals prize fund, and the balance of which will be applied to lineage fees).

1.3 **"Basic Star of the Game."** Bowlers rolling the highest game in each league at each Grass Roots Tournament Series bowling center will be named a "Basic Star of the Game" and will receive a Basic-identified award. All Basic Stars of the Game will automatically qualify for an in-house local championship at each participating bowling center to be held between October 19, 1998 and October 25, 1998.

1.4 **Regional Market Finals.** One of ten bowlers from each participating center within each of the Regional Markets will advance to a Regional Market Final to be held in each of the Regional Markets (each such final hereinafter referred to as a "Regional Market Final") to be completed by November 15, 1998. Those bowlers who have qualified for a Regional Market Final will compete for a prize fund set by the state Bowling Proprietors Association. The format of tournament play at each Regional Market Final will be a three-game series with handicap, with such modifications or alternate format as may be determined by STE subject to approval thereof by PM. In addition to a regional market tournament in each participating market, a maximum of four additional regional tournaments will be held in larger sized markets.

1.5 **Pro-Am Championship.** The top male and female bowler from each Regional Market Final will advance to a Pro/Am event sponsored by Basic to be held December ~~10-12~~ (amateur only) and December ~~11-13~~, 1998, at The Orleans Hotel in Las Vegas, Nevada (hereinafter referred to as the "Pro/Am Championship"). At the Pro/Am Championship, bowlers will compete for a \$125,000 prize fund. The format of play for the Pro/Am Championship shall be a four game series with handicap, with such modifications or alternate format as may be determined by STE subject to approval thereof by PM. A separate prize fund of \$5,000 will be distributed to the professional bowlers.

1.6 **Professional Mixed Doubles Tournament.** The "Professional Mixed Doubles Tournament" will mean a Basic-sponsored professional mixed doubles tournament featuring PWBA and PBA players teamed in mixed pairs, competing for \$200,000 in prize money, scheduled in conjunction with the Pro/Am Championship over a two-day period at the conclusion of the fall PBA and PWBA tours on December 12-13, 1998, at The Orleans Hotel in Las Vegas, Nevada. STE on behalf of PWBA will organize, promote and stage, in partnership with PBA, the Professional Mixed Doubles Tournament. Tournament entry will be limited to the top 48 bowlers (twenty-four (24) men and twenty-four (24) women) on the PWBA and PBA tours as determined by the Basic Rankings. The Tournament format will be a mixed doubles competition with competitors bowling 32 games of match play to determine the winning team.

1.7 **Authorized Program Name.** STE will not use or authorize the use of any name for the Program not approved by PM.

1.8 **Sponsorship.** During the Term of this Agreement, STE agrees that Basic shall be designated the exclusive sponsor of the STE, the BPAA and the PWBA in the cigarette and tobacco products category and shall be the exclusive sponsor of the Grass Roots Tournament Series.

1.9 **Basic Showdown.** A three-game roll off between the number one PBA player and the number one PWBA player as determined by the Basic Rankings will be held December 10, 1998 at The Orleans Hotel in Las Vegas, NV. A \$30,000 winner-take-all prize fund will be distributed. Recognizing the goodwill associated with the Basic Bowling promotion, and in order to enhance the recognition of special events comprising the Basic Bowling promotion, STE

on behalf of PWBA agrees not to conduct or participate in a competition similar to the Basic Showdown during the term of the agreement without the prior written consent of Philip Morris.

## ARTICLE II -- AGREEMENTS OF STE.

2.1 STE on behalf of BPAA and PWBA agrees to provide IMC with the following rights and benefits in connection with the Program, which rights and benefits shall be provided to and on behalf of PM in connection with the sponsorship by PM of the Program:

- (a) STE will assist PM in securing the cooperation of participating bowling centers to allow the sale of Basic cigarettes if so desired by PM.
- (b) STE will assist PM in securing the cooperation of participating bowling centers to allow permanent Basic bowling program signage to be placed by PM in each bowling center.
- (c) STE will distribute a maximum of ~~two~~three mailings including a sign-up agreement and the Agreement Regarding the Use of Promotional Materials in the form attached hereto as Exhibit A promoting the Basic bowling program to eligible BPAA member centers in sufficient time prior to the scheduled qualification events for the Regional Market Finals to allow such centers to indicate an interest in participating in the Grass Roots Tournament Series.
- (d) STE will collect, retain originals and forward copies of each executed sign-up agreement and Agreement Regarding the Use of Promotional Materials to IMC by September 1, 1998.
- (e) STE will conduct a mail survey to all U.S. bowling centers (BPAA member centers and non-member centers) using the survey form attached hereto as Exhibit B. STE will forward the results of the survey and provide PM with a written report summarizing the survey findings no later than November 1, 1998. IMC will reimburse STE for mailing costs not to exceed a total of \$5,000.

- (f) STE will administer and coordinate the "Basic Star of the Game" program as well as the qualification for the Regional Market Finals with participating bowling centers in the Regional Markets.
- (g) STE will provide PM with a list of regional coordinators who will be responsible for the conduct of the Regional Market qualification events and Regional Market Finals.
- (h) STE will be responsible for the coordination and professional organization of the Regional Market Finals in each of the Regional Markets as well as the Basic Pro/Am Championship and deliver form 1099 to the Internal Revenue Service on behalf of all prize winners.
- (i) STE will provide PM with a complimentary full page, four-color advertisement for Basic in each issue of the Bowling Center Management magazine for the duration of this Agreement. PM will provide artwork.
- (j) STE will provide an article/editorial piece describing the 1998 Basic Bowling Promotion in the Bowling Center Management magazine.
- (k) STE will make Basic the exclusive tobacco sponsor of the STE, BPAA and PWBA in the United States during the term of this Agreement.
- (l) STE will use its best efforts to ensure that participating bowling centers contribute a minimum of \$4 from each local entry fee to the Regional Market.
- (m) STE (on behalf of BPAA and PWBA) will grant PM the right of prior approval of all materials, including, without limitation, advertising, press releases, tickets, programs and other promotional materials STE desires to use in conjunction with the Program.
- (n) STE will use its best efforts to notify PM before the Program of any tobacco products fixed advertising signs or other in-place tobacco products advertising located at any Regional Market Finals venue.

- (o) STE will use its best efforts to assist PM with the development and promotion of a Basic Bowling-themed retail program.
- (p) STE will direct that state associations utilize the standardized Basic Bowling entry form and use best efforts to ensure that program participants complete the smoker-related questions where applicable.
- (q) STE will assist PM and its public relations agency to generate publicity and other public relations activities in connection with the Basic Bowling program.
- (r) STE will provide PM with a written post-tournament summary including number of participating centers, total prize money distributed by state associations, approximate lineage fees generated by the Basic Bowling program and recommendations in tournament format for a possible 1999 Basic Bowling program. Said summary shall be provided on or before January 1, 1999.
- (s) STE will provide PM with an updated listing of 1998 BPAA member centers.
- (t) STE will provide PM with a complete listing of Regional Market Finals sites by November 1, 1987.
- (u) STE will use its best efforts to ensure that Regional Market Finals are held in a minimum of ten of the Basic key markets as determined by PM.
- (v) STE will use its best efforts to assist PM and its promotion agency in securing BPAA member centers to host a Basic promotion in designated Basic markets.
- (w) STE will permit Basic signage to be displayed at PWBA Tour Events held in markets of interest to Basic subject to restrictions necessitated by the presence of existing sponsors of the specific PWBA Tour Events during the term of the agreement.

- (x) STE will designate Basic as an official sponsor of the STE, BPAA and PWBA during the term of the agreement.
- (y) STE will permit PM to use the BPAA and PWBA logo for Basic bowling-related advertising and promotional materials including posters, counter cards and entry forms.
- (z) STE will include an article/editorial piece describing the 1998 Basic Bowling Promotion in the 1999 PWBA annual program.
- (aa) STE will make public address announcements at each PWBA Tour Event promoting the Basic Pro/Am Championship and Professional Mixed Doubles Tournament.
- (bb) STE will include Basic as an official sponsor in a designated number of PWBA media releases.
- (cc) STE will assist with the scheduling of PWBA players for Basic promotional/publicity purposes when requested by PM. It is understood that PM will negotiate directly with PWBA players for such promotional publicity purposes.
- ~~(dd) STE will grant PM the right of prior approval of all materials, including without limitation, advertising, press releases, tickets, programs and other promotional materials BPAA and PWBA desires to use in conjunction with the Program.~~
- (~~dd~~ee) STE will notify PM before the Program of any tobacco products fixed advertising signs or other in-place tobacco products advertising located at PWBA tour venues.
- (~~ee~~ff) STE will provide PM with a mutually agreeable number of complimentary entries to PWBA Tour Pro/Am events held in markets of interest to PM.

(~~ffgg~~) STE will make best efforts to ensure attendance by PWBA players at the Pro-Am Championship on December 11, 1998, the Basic Showdown on December 10, 1998 and the Professional Mixed Doubles Tournament on December 12-13, 1998, at The Orleans Hotel in Las Vegas, NV, and at related receptions at The Orleans Hotel in Las Vegas, NV.

(~~gghh~~) STE will grant PM the title position with the official tour rankings which will be referred to as the Basic Rankings in all PWBA press announcements, advertising and publications.

(~~hhii~~) STE will not charge an "entry fee" for PWBA bowlers in conjunction with the Pro/Am or Mixed Doubles events.

### ARTICLE III - SPONSORSHIP RIGHTS OF PM

3.1 **Program Materials.** Both STE on behalf of BPAA and PWBA and PM shall have the right of prior approval of all materials, including, without limitation, the Promotional Items, advertising, press releases, tickets, programs, and other promotional materials (collectively the "Program Materials") used at or in connection with the Program and the manner of their use. No materials approved by PM or STE on behalf of BPAA and PWBA shall be changed without such parties' consent.

3.2 **Decoration of the Program Sites.** Each Program site shall be arranged and decorated by the appropriate STE representatives through coordination with PM, as instructed and approved by PM. Costs shall be limited to IMC-provided materials.

3.3 **Sale at the Program Sites.** PM shall have the right, subject to local governmental and Program site regulations, to sell packs of Basic and distribute promotional materials to smokers over the age of twenty-one (21) at and around each Program site. All sales conducted in connection with the Program will be conducted by employees of an agency retained by PM and will be restricted to individuals who certify in writing and by identification that they



are twenty-one (21) years old or older. Sales will be subject to approval by participating bowling centers.

3.4 **No Other Promotional Materials.** No other promotional or advertising materials of any tobacco product other than a PM tobacco product will be displayed or distributed at any Program site. It is understood that if Program sites have fixed advertising signs or other in-place advertisements that they are contractually required to maintain, such items are excluded from the prohibition of this paragraph.

3.5 **Exclusivity.** STE on behalf of BPAA and PWBA agrees not to conduct any special promotion which is featured in the Basic program tournaments without the prior written consent of Philip Morris during the term of the agreement.

#### ARTICLE IV -- OBLIGATIONS OF IMC ON BEHALF OF PM

4.1 **Specific Obligations of IMC on Behalf of PM.** IMC agrees on behalf of PM to do the following in connection with the 1998 Program:

(a) PM will provide STE with \$2,750 for each Regional Market prize fund (maximum of 50 markets) by October~~November~~ 1, 1998, for distribution at the Regional Market Finals and a total of \$125,000 in prize money to STE by October~~November~~ 29, 1998, for distribution at the Basic Pro/Am Championship on December 10 and 11, 1998, which will be held at the Orleans Hotel in Las Vegas, Nevada. STE on behalf of BPAA agrees to use its best efforts to ensure that \$4.00 from each local entry fee discussed in Section 2.1(i) above will be applied in addition to PM's obligation to fund \$2,750~~000~~ in prize money for each Regional Market final.

(b) PM will pay administrative fees (not to exceed \$1,750 per market maximum of 50 markets) associated with the Regional Market Finals in the Regional Markets to STE by October~~November~~ 1, 1998, as well as all lineage fees at the Basic Pro/Am Championship and Mixed Doubles Tournaments. STE will

provide PM with a breakdown of administrative fees distributed to each participating market by November 28, 1998.

(c) PM will provide Basic bowling identified promotional materials to all participating BPAA bowling centers.

(d) PM will provide a premium item (i.e., certificate) for all participants in the 1998 Basic Bowling Regional Events.

(e) PM will provide plaques for all Regional Market Finals finalists as well as the Basic Pro/Am Championship finalists and Mixed Doubles finalists.

(f) PM will host a cocktail reception on December 10, 1998 and awards banquet on December 11, 1998 for all Pro/Am Championship participants at The Orleans Hotel in Las Vegas, Nevada.

(g) PM will provide air fare, four hotel nights and a total of \$150 in expense money for the male and female amateur bowler who qualify from each Regional Market Final for the Basic Pro/Am Championship.

(h) PM will cooperate with the distribution of the 1998 Basic Bowling Promotion tournament promotional materials to participating bowling centers. STE will use its best efforts to ensure that the 1998 Basic Bowling Promotion program-related promotional materials are attractively and prominently displayed at participating member centers.

(i) PM will grant STE the opportunity to participate in the approval process with regard to signage at the Basic Pro-Am Tournament.

(j) PM will provide STE with Basic-identified banners to be displayed by PWBA at PWBA Tour events held in markets of interest to PM (to be identified in advance by PM).

(k) PM will provide STE with \$5,000 in prize money for distribution to professional female bowlers participating in the Pro-Am Championship, and a total of \$100,000 prize money which STE on behalf of PWBA agrees to distribute to the 24 top female bowlers competing in the Professional Mixed Doubles Tournament. Such funds will be provided to STE immediately prior to the relevant events.

(l) PM will provide STE with \$10,000 in prize money to be awarded to the top PWBA bowler(s) as judged by the Basic Rankings. Such funds will be provided by November 1530, 1998.

(m) PM will provide the winner (PWBA or PBA player) of the Basic Showdown with \$30,000.

(n) PM will provide STE with counter cards, entry forms and posters for use by PWBA to publicize the Professional Mixed Doubles Tournament and the Pro-Am Championship.

(o) PM will provide STE with a total of \$4,800 to cover the cost of PWBA bowler entry fees. Such funds will be provided by November 1530, 1998.

## ARTICLE V -- COMPENSATION TO STE

5.1 As full and complete compensation for the rights and benefits provided by STE as hereinbefore set forth, IMC agrees on behalf of PM to pay STE, and STE on behalf of BPAA and PWBA agrees to accept, an administration and sanctioning fee in the amount of One Hundred Five Thousand United States Dollars (US\$105,000) to be paid as follows: Fifty-Five Thousand Dollars (\$55,000) within thirty days following the execution of this Agreement; and Twenty-Five Thousand Dollars (\$25,000) on or before October ~~November~~ 30, 1998, and Twenty-Five Thousand Dollars (\$25,000) on or before November 30, 1998. -

**ARTICLE VI -- TRADEMARKS**

6.1 In connection with the advertising and promotion related to the Program, PM and STE on behalf of BPAA and PWBA will have the right to reproduce the trademarks of the other, provided that each such use will be subject to the other party's prior written approval; such approval not to be unreasonably withheld. Upon submission of materials for approval, the party from which approval is sought will have fourteen (14) days within which to approve or disapprove, in writing, of such materials. Failure to approve or disapprove materials within such time period will be deemed approved.

**ARTICLE VII -- TERM, RIGHT OF RENEWAL, TERMINATION**

7.1 **Term.** This Agreement shall commence upon its execution and continue through the completion of the Program, subject to IMC's rights on behalf of PM to terminate this Agreement as provided herein (the "Term").

7.2 **Renewal.** The parties agree to negotiate in good faith for a renewal of this Agreement, including the amount of the prize fund and sponsorship fee no later than January 31, 1999.

7.3 **Termination by Default.** On behalf of PM, IMC may terminate this Agreement upon fifteen (15) days prior written notice to STE if STE has committed a material breach of any provision herein contained; and STE may terminate this Agreement upon fifteen (15) days prior written notice to IMC on behalf of PM if PM fails to fulfill its payment obligations herein contained; provided, however, that if either party hereto cures such default described in this Paragraph 7.3 within such 15-day period, then this Agreement shall not be terminated.

7.4 **Special Right of Termination.** If any judgment or any federal, state municipal or local law, regulation, ordinance or ruling becomes effective which makes the promotion of tobacco products as contemplated by this Agreement unlawful or impractical or, in the judgment of PM or STE on behalf of BPAA and PWBA, materially reduces the value of this Agreement to PM or STE, as the case may be, this Agreement may be terminated by IMC on behalf of PM or STE as of the date such judgment, law, regulation, ordinance or ruling becomes effective and

STE shall refund to IMC all amounts paid to STE by IMC hereunder. If this Agreement is terminated as provided in the preceding sentence, STE may deduct from such refund all non-recoverable costs incurred by STE. STE will supply reasonable documentation for such non-recoverable costs so deducted. IMC on behalf of PM and STE each agree that before exercising any rights under this section, representatives of PM and IMC on behalf of PM shall meet with representatives of STE to discuss in good faith the conditions which have brought about the desire of PM or STE, as the case may be, to apply this section, and the parties agree that they will discuss in good faith any alternatives to termination which may exist.

7.5 Notwithstanding any other provisions of this Agreement, STE may terminate this Agreement if at any time it is advised by the Internal Revenue Service (the "IRS"), its legal counsel, or its independent certified public accountants that because of this Agreement or the implementation thereof (A) any part of the revenues received by STE under this Agreement is being claimed by the IRS to constitute unrelated business income, or (B) there is a material risk of such a challenge or claim.

#### ARTICLE VIII -- MISCELLANEOUS

8.1 **Representatives.** IMC and PM shall have the right to have their representatives present at each Program event to see that it is conducted pursuant to the terms of this Agreement, and STE on behalf of BPAA and PWBA agrees to cooperate with such representatives in conducting the Program. STE on behalf of BPAA and PWBA agrees also to cooperate with representatives of third parties as directed by IMC.

8.2 **Standards.** The Program shall be conducted by STE on behalf of BPAA and PWBA in accordance with this Agreement and the highest industry standards prevailing for similar first-class events in the United States. The intent is to provide the best possible atmosphere and environment for the conduct of the Program, and STE will use its best efforts to accomplish this end.

8.3 **Applicable Laws.** STE on behalf of BPAA and PWBA, IMC and PM will comply with all federal, state and local laws, regulations and ordinances affecting all of their activities under this Agreement. Further, STE acknowledges that it is cognizant of the provision

of Title 15, Section 1331 et seq. of the United States Code and is aware of PM's obligations under those provisions.

8.4 **Indemnity.** STE shall save and hold PM and IMC, and either of them (including their respective affiliates, successors and assigns and the directors, officers, shareholders, employees and agents of each of the foregoing), harmless from and against any and all claims, demands, liabilities, suits, or damages, including reasonable attorneys fees ("Damages") arising from or relating to the obligations or activities of STE under this Agreement unless caused by the negligence of PM or IMC. IMC or PM, as the case may be, shall save and hold STE (including its directors, officers, employees and members) harmless from and against any and all Damages arising from or relating to actions taken by IMC or PM, as the case may be, under this Agreement unless caused by the negligence or misconduct of STE. Each party shall notify the other of any claim or lawsuit covered by this Section 8.4 that comes to its attention. IMC, PM or STE, as the case may be, shall be given the opportunity to participate, at its own respective cost, in the defense of any claim or lawsuit covered by this Section 8.4 or may, at its option, take over and control the defense of any such claim or lawsuit but may not, in the latter case, settle such claim or lawsuit without the written consent of STE, IMC or PM, as the case may be. These indemnification provisions shall survive the termination of this Agreement.

8.5 **Insurance.** During the term of this Agreement, STE on behalf of BPAA and PWBA shall maintain a commercial general liability and umbrella insurance policy (the "Insurance Policy") which Insurance Policy shall provide the following types and amounts of coverage:

- (a) Comprehensive general liability, including advertiser, participants', spectators', host liquor and contractual liability, with limits as follows:

\$5,000,000      General Aggregate (other than products, completed operations and automobile liability)

\$5,000,000      Products - completed  
Operations aggregate

\$5,000,000 Each occurrence

(b) Employer's liability with limits as follows:

\$100,000 Each accident

\$100,000 Each employee - Disease

\$500,000 Policy Limit - Disease

(c) Business auto liability, including all owned, non-owned and hired autos with limits of no less than \$1,000,000 combined single limit.

STE covenants, represents, and warrants that during the term of this Agreement (a) IMC and PM, their affiliates, employees and assigns shall be named as additional insureds under the Insurance Policy, and (b) the Insurance Policy shall provide that IMC and PM will be provided at least thirty (30) days advance written notice of cancellation or modification of the Insurance Policy.

8.6 **Force Majeure.** Force majeure, acts of God, or other causes beyond the control of either party necessitating the cancellation of any Program event or any other event related to the Program, including, without limitation, the enactment of legislation, the taking of other governmental or regulatory action or the entry of any judgment, that, in the reasonable business judgment of PM, materially affects PM's sponsorship of the Program, shall not subject either IMC, PM or STE to any liability, and PM may cancel its participation in any or all of the Program events.

8.7 **Independent Contractor.** The parties are and shall at all times remain independent contractors. Nothing contained herein shall be construed to make the parties joint venturers. Neither party is authorized to enter into any Agreement on behalf of or as agent for the other party or to take other action in the name of the other party except as specifically stated in this Agreement. Neither party shall have any liability for any obligation incurred by the other party, except as specifically provided in this Agreement.

8.8 **Trademarks.** (a) STE recognizes and acknowledges that the Basic name and the designs, emblems, slogans and insignia of the Basic brand, and the goodwill associated therewith, have great value and are the sole property of PM, and STE agrees that it has and will claim no right, title or interest in the same or the use thereof except the right to use them pursuant to the terms and conditions of this Agreement. STE agrees that in the event of a breach of this Agreement by it, the threatened injury to the Basic name, designs, emblems, slogans and insignia and to the goodwill associated therewith would be irreparable, and injunctive or other equitable relief to protect those assets would be appropriate (without limitation as to monetary damages or other remedies that might be available to PM at law).

(b) PM recognizes and acknowledges that the STE name and the designs, emblems, slogans and insignia of STE, and the goodwill associated therewith, have great value and are the sole property of STE, BPAA/PWBA and PM agrees that it has and will claim no right, title or interest in the same or the use thereof except the right to use them pursuant to the terms and conditions of this Agreement. PM agrees that in the event of a breach of this Agreement by it, the threatened injury to the STE name, designs, emblems, slogans and insignia and to the goodwill associated therewith would be irreparable, and injunctive or other equitable relief to protect those assets would be appropriate (without limitation as to monetary damages or other remedies that might be available to STE at law).

8.9 **Complete Agreement.** This Agreement is the complete agreement between the parties and supersedes any prior oral or written agreements on the subject hereof.

8.10 **Governing Law.** This Agreement shall be governed by the laws of the State of New York applicable to agreements made and to be performed entirely within such state. Any court action pursuant to Section 8.11 below shall be commenced and maintained in the state or federal courts located in or closest to New York, New York. For the purposes of the preceding sentence only, the parties agree to submit to the jurisdiction of such courts and hereby waive any objections to venue or jurisdiction in such courts.

8.11 **Arbitration.** In the event a dispute arises under this Agreement which cannot be resolved, such dispute shall be submitted to arbitration and resolved by a single arbitrator (who shall be a lawyer) in accordance with the arbitration rules of the American Arbitration Association then in effect. All such arbitration shall take place at the office of the American



Arbitration Association located in New York, New York. The award or decision rendered by the arbitrator (including an allocation of costs) shall be final, binding and conclusive and judgment may be entered upon such award by any court. These arbitration provisions shall not prevent any party from obtaining injunctive relief from a court of competent jurisdiction to enforce the obligations of the other party hereunder for which such party may require provisional relief pending a decision on the merits by the arbitrator. The arbitrator shall have authority to award any remedy or relief that a court of competent jurisdiction could grant in conformity to applicable law, excluding attorneys' fees or punitive damages.

8.12 **Notice.** Any notice from one party to the other relating to this Agreement shall be deemed duly given if delivered by hand or sent by United States certified mail, return receipt requested, postage fully prepaid, to the respective addresses set out at the beginning of this Agreement, if to STE, to the attention of: Steve Ryan, and if to IMC or PM, to the attention of: Jay Kenney.

8.13 **Amendment, Assignment, Waiver.** This Agreement may not be amended or assigned except by a writing signed by both parties. Any waiver hereunder must be in writing to be valid and a waiver by PM or STE of any of the terms or conditions of this Agreement in any one or more instances shall not be deemed or construed to be a general waiver or a waiver of any other term or condition or a waiver of any subsequent breach.

8.14 **Regional Tournament Locations.** PM and STE will mutually agree on the Regional Markets which will host the Basic Regional Tournaments.

8.15 **Representations and Warranties of IMC.** IMC represents and warrants that IMC has been duly authorized by PM to enter into this Agreement and to use and commit PM's trademarks, products and services to complete the objectives of this Agreement as expressly permitted in this Agreement. IMC agrees to indemnify, save and hold harmless STE and its officers, directors, agents, members and employees, and each of them, from and against any and all claims, losses, damages, liabilities, judgments, or settlements, including reasonable attorneys' fees, costs or other expenses incurred by them on account of the breach of the representation and warranty made by IMC pursuant to the preceding sentence. The provisions of this Section 8.15 shall survive the expiration or termination of this Agreement.

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement as of the date first written above.

INTERNATIONAL MERCHANDISING  
CORPORATION as agent for PHILIP  
MORRIS INCORPORATED

STRIKE TEN ENTERTAINMENT

By \_\_\_\_\_

Title \_\_\_\_\_

By \_\_\_\_\_

Title \_\_\_\_\_

27438

**EXHIBIT A**  
**FORM OF SIGN-UP AGREEMENT**  
**BASIC IS GREAT IN 1998**

It was the MERIT Star of the Game and now it's the BASIC Star of the Game, but it is still the same money-making tournament for your bowling center this fall.

Please return this card by August 24, 1998 to ensure timely receipt of BASIC point of sale materials. *League qualifying starts September 21, 1998.*

☐ Yes, I would like to participate in the 1998 Basic bowling program. Please send all tournament information to the following address:

Center: \_\_\_\_\_

Member #: \_\_\_\_\_

UPS Shipping Address: \_\_\_\_\_

\_\_\_\_\_  
City, State, Zip: \_\_\_\_\_

\_\_\_\_\_  
Telephone: (    ) \_\_\_\_\_

☐ Yes, I will use all counter cards, brochures and posters provided to me in connection with the program in accordance with the instructions made known to me by the Bowling Proprietors' Association of America, IMC or Philip Morris Incorporated.

☐ Yes, my center has a bar area.

☐ Yes, my center will sell BASIC cigarettes in our bar area.

☐ Yes, I would like to receive promotional and point of sale materials for use in the bar area of my center only and have signed the Agreement Regarding the Use of Promotional Materials attached hereto.

In-House Director: Name \_\_\_\_\_ Signature: \_\_\_\_\_

## AGREEMENT REGARDING USE OF PROMOTIONAL MATERIALS

This agreement is entered into as of \_\_\_\_\_, 1998, by and between International Merchandising Corporation ("IMC") and \_\_\_\_\_ (the "Bowling Center") pursuant to which the **1998 BASIC Bowling Promotion** will be conducted at the Bowling Center from \_\_\_\_\_, 1998 to \_\_\_\_\_, 1998.

The Bowling Center acknowledges and agrees that **BASIC** promotional and point of sale materials are intended for adult smokers. In consideration of receiving **BASIC** point of sale and promotional materials, the Bowling Center agrees to abide by all restrictions and instructions concerning the placement of such point of sale and promotional materials made known to the Bowling Center by the Bowling Proprietors' Association of America, IMC or Philip Morris Incorporated which are intended to achieve placement and distribution to reach the intended audience. The Bowling Center further agrees that all promotional materials, other than posters, counter cards, brochures and ashtrays will only be placed in the bar area of the Bowling Center.

ACCEPTED AND AGREED  
AS OF THE DATE HEREOF:

(BOWLING CENTER)

By: \_\_\_\_\_

Title: \_\_\_\_\_

INTERNATIONAL MERCHANDISING  
CORPORATION

By: \_\_\_\_\_

Title: \_\_\_\_\_

**EXHIBIT B**  
**BASIC BOWLING BAR SURVEY FORM**

MARKET (City/State):

BOWLING CENTER:  
(Address & Phone Number)

MANAGER/PROPRIETOR:

YES

NO

SEPARATE ENCLOSED BAR AREA:

BAR INTERIOR VISIBILITY FROM  
CONCOURSE:

SEPARATE BAR ENTRANCE:

SQUARE FOOTAGE (BAR):

CAPACITY (BAR):

SEATING CONFIGURATION # of tables:

Seating at Bar/How many?:

SNACK BAR/CONCESSION AREA  
w/liquor sales:

BAR AGE RESTRICTED:

BAR OWNED BY CENTER:

SMOKING PERMITTED AT BAR:

SMOKING PERMITTED (Concourse/Settee):

METHOD OF CIGARETTE SALES:

OTHER COMMENTS: